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### **REPORT TO COUNCIL**

#### **SUBJECT**

Authorize the City Manager to Execute a Funding Agreement between the City of Sunnyvale and Santa Clara Valley Water District for the Construction of Recreational Trails as Part of the Sunnyvale West Channel and Sunnyvale East Channel Project and Approve Budget Modification No. 12 to Appropriate \$500,000 from Park Dedication Funds for Construction of the Trail

#### **BACKGROUND**

In 2013, the City was awarded a One Bay Area Grant (OBAG) for the construction of the East and West Channel trails. The West Channel trail will extend from Caribbean Drive to Mathilda Avenue, and the East Channel trail will extend from Caribbean Drive to Moffett Park Drive (Attachment 1). Combined, the project will provide approximately 1.7 miles of new trails. A section of the trail will also be constructed by Moffett Place LLC as part of the development located at 1152 Bordeaux Avenue, approved by City Council in December 2013 (RTC 13-283).

The trails are currently being designed as part of the Santa Clara Water District (District) Sunnyvale East and West Channel Flood Protection Project. On August 25, 2015, the City Council authorized the City Manager to enter into a Joint Use Agreement with the District for maintenance of the trail. This proposed funding agreement will allow the District to construct the project on behalf of the City. Currently, the project is expected to start in 2016 and to be completed in 2017, with the trail expected to be one of the last phases of the project. However, the schedule is subject to change based on the timing of the required permits. The trail was originally anticipated to be funded by the OBAG grant, but is now proposed to be funded by Park Dedication Fund (PDF) funds.

#### **EXISTING POLICY**

General Plan, Chapter 3, Policy LT-8.8 - Support the acquisition or joint use through agreements with partners of suitable sites to enhance Sunnyvale's open spaces and recreation facilities based on community need and through such strategies as development of easements and right-of-ways for open space use, conversion of sites to open space from developed use of land and landbanking.

General Plan, Chapter 4, Policy CC-10.6 - Leverage available resources by pursuing co-funded and or cooperative agreements for provision and maintenance of programs, facilities, and services, in order to maximize benefits to the community. Partners may include, but are not limited to, school districts, non-profit groups, governmental agencies, and businesses.

#### **ENVIRONMENTAL REVIEW**

The District certified an EIR for the project, including the trails, on September 9, 2014; the funding agreement does not require further CEQA review.

#### **DISCUSSION**

Over the last few months, staff from the City and District developed the Cost-Sharing Agreement (Attachment 2) to allow for the construction of the trails. The three key items for discussion as part of this report are the cost, the City and District responsibilities, and the funding source for construction.

### Trail Costs

As part of the design process, District staff developed a \$400,000 engineer's estimate for construction of the trail. While the engineer's estimate is necessary for budgeting purposes, the final cost for construction, and the City's funding responsibility, will be based on the actual bid price. Below are key items regarding the overall costs:

- The \$400,000 cost is only for the pavement required for the trail.
- The trail will be constructed over the District's maintenance road. The District will be funding all grading, base construction, and drainage requirements. These items are needed as part of the maintenance road construction, and the District did not request a fair-share contribution from the City.
- The District did not request any funding towards the design of the trail.
- The District is not requesting a contribution towards contract management or construction management.
- The District is requesting that the City provide encroachment permits (for work within city ROW) at no cost to the District.
- City will provide a staging area, via a Temporary Construction Easement (Attachment 3), at no cost to the District for a period of three years. The City estimates that the City's current dollar value of the staging area is minimal, however it provides a significant benefit for construction of the project, including the trail. The Temporary Construction Easement will be part of a future action that will come to Council. This action will include other easements required by the project and also will include any implementation details such as working hours and permitted uses within the easements.

The City and District have worked as partners in developing a project and cost sharing agreement that will provide flood protection and trail amenities to Sunnyvale residents and is equitable to both agencies.

### Agreement Responsibilities

The section below provides some highlights of additional agreement requirements:

District responsibilities include:

- Administer, design, and contract the trail construction.
- District is the lead CEQA agency and responsible for meeting CEQA requirements.
- District will use best efforts to construct the trail by December 31, 2017.
- If the regulatory permits are not obtained, District is not required to complete the flood protection project or trail improvements.

City responsibilities include:

- Timely review of all encroachment permits submittals.
- Timely execution of permanent and temporary right of way deeds.
- Review and provide comments on all trail improvements.

Cost Sharing responsibilities include:

- The District will provide the City with the cost of the trail within seven days of the bid opening.
- The City, if the costs are acceptable, will submit full payment for the cost of the improvements within 90 days of the notice to proceed.
- District will provide all required documentation for cost (including all change orders) to the City.
- Establishes approval periods and process for any unanticipated costs.

### Funding Source

The City received an OBAG grant in 2013 for \$3.4 million for the trails, with a required \$900,000 local match. Over the last few months, staff from the City and District has determined that using OBAG grant funding is not feasible. The Districts flood protection project is fully funded with local funds while OBAG funds are federal funds. This funding distinction created the following two issues:

- Since the District's project is fully funded by local funds, it is only required to get California Environmental Clearance (California Environmental Quality Act or CEQA), which the District has already obtained. The use of OBAG funds requires Federal Environmental Clearance (National Environmental Policy Act or NEPA). City staff met with Caltrans staff (who manages OBAG funding) twice to determine the feasibility of obtaining NEPA for the trail. Staff attempted to establish a process to obtain NEPA for only the installation of the trail improvements, however Caltrans determined that to use OBAG funds, the City would need to obtain NEPA clearance for the District's entire flood protection project. Based on preliminary discussion with a consultant, this process would cost approximately \$300,000-\$500,000 and would delay the project 18-24 months. This was not acceptable to either the City or District.
- The use of OBAG funds also has certain federal requirements from the contractor that would increase overall project costs for the District.

The construction of the trails is still a priority for the City. Since the use of OBAG funds is not feasible, staff proposes to complete the trail construction with PDF funds. Staff is also working to determine if Sunnyvale can retain the OBAG funds, and focus the funding on additional improvements to serve trail users. These could include items such as better on-street crossings, gateway or entrance elements, and a signage plan. It is not known at this time if the modified scope will be acceptable to the granting agency.

### **FISCAL IMPACT**

Although the current engineer's estimate is \$400,000, staff is requesting to budget \$500,000 from PDF funds for the project. Based on the current volatility of bid prices, staff determined that these additional funds will provide sufficient flexibility to cover the bid item within the established timeframes. However, if the cost exceeds \$500,000, staff will be required to return to Council to determine if the City would still like to continue with the project and provide additional funds.

Budget Modification No. 12 has been prepared to appropriate \$500,000 from the Park Dedication Fund Capital Projects Reserve to a new project. Due to the elevated level of development activity over the past several years, and the corresponding increase in Park Dedication Fee Revenue, the Fund can absorb this additional appropriation without a negative impact on future planned projects. An existing capital project for the East and West Channel Trails, which reflects the appropriation of the OBAG funds, will be maintained, pending resolution of the use of some or all of the grant for

related purposes.

**Budget Modification No. 12  
FY 2015/16**

	Current	Increase/ (Decrease)	Revised
<b>Capital Projects Fund</b>			
New Project - East and West Channel Trail Construction	\$0	\$500,000	\$500,000
<b>Park Dedication Fund</b>			
<u>Reserves</u>			
Capital Projects Reserve	\$16,540,294	(\$500,000)	\$16,040,294

**PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

**RECOMMENDATION**

Authorize the City Manager to execute a Cost Sharing Agreement between the City of Sunnyvale and Santa Clara Valley Water District for the construction of recreational trails as part of the Sunnyvale West Channel and Sunnyvale East Channel Flood Protection Project and Approve Budget Modification No. 12 to Appropriate \$500,000 from Park Dedication Funds for Construction of the Trail.

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Reviewed by: Grace K. Leung, Director of Finance

Reviewed by: Kent Steffens, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

**ATTACHMENTS**

1. Trail Boundaries
2. Cost Sharing Agreement
3. Staging Area